IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No. 3350 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAMILA AYUBBHAI CHHIPA & 1 - Applicant(s)
Versus
THE STATE OF GUJARAT - Respondent(s)

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Appearance :
MR FEROZ H PATHAN for Applicant(s) : 1 - 2.
MR AY KOGJE, APP for Respondent(s) : 1,
MS ALPA J DAVE for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 18/04/2007

ORAL JUDGMENT

1. Rule. Learned APP Shri A.Y. Kogje waives service of rule on behalf of respondent State.
2. On 5th April, 2007, this Court has adjourned the

proceedings to await analysis of the substance found in the stomach of the complainant. Learned APP Shri Kogje has placed before the Court for Court's perusal the result of the chemical analysis submitted by the Laboratory.

3. In this application, the applicants have sought anticipatory bail in the event of their arrest pursuant to CR No.I-37/2007 dated 13th March, 2007, filed before Gayakwad Haveli Police Station.

4. The original complainant has stated inter-alia in her complaint that the applicants had called her at their residence and tried to administer poison forcibly. She had in-fact gulped down two or three gulps of such poisonous substance before running out of the house shouting for help. It is the case of the complainant that her husband insisted for obtaining divorce which the complainant was not ready to give due to which the applicants herein had assaulted her and tried to murder her.

5. Learned advocate Shri Feroz Pathan for the applicants submitted that the husband of the complainant did not require consent of the complainant before securing divorce. He submitted that entire incident is not believable.

6. On the other hand, learned APP Shri Kogje opposed the application and submitted that investigation is still not over.

7. Having heard learned advocates appearing for the parties as also Ms. Alpa Dave for the original claimant, I find that this is a fit case wherein anticipatory bail is required to be granted. I have perused the FSL report as well as the statements recorded by the police so far. Prima facie, it appears to be a case where no poisonous substance is found upon chemical analysis.

8. Considering all these aspects of the matter, I am inclined to grant anticipatory bail, however, confining these observations only at this stage and the same will have no bearing on the prosecution to be carried out.

9. In the result, it is directed that in the event of applicants being arrested pursuant to CR No.I-37/2007 dated 13th March, 2007, filed before Gayakwad Haveli Police Station, they shall be released on bail on each one of them furnishing bond of Rs. 10,000/-(Rupees Ten Thousand Only) with one surety of the like amount on following conditions :

[A] shall cooperate with the investigation and make themselves available for interrogation whenever

required.

[B] shall remain present at the concerned Police Station on 23rd April, 2007 between 9 a.m. to 2 p.m. ;

[C] shall not hamper the investigation in any manner nor shall directly or indirectly make any inducement, threat or promise to any witness so as to dissuade them from disclosing such facts to the Court or to any Police Officer;

[D] at the time of execution of bond, furnish the address to the Investigating Officer and the Court concerned and shall not change the residence till the final disposal of the case or till further orders;

[E] will not leave India without the permission of the Court and, if is holding a Passport, shall surrender the same before the trial Court within a week;

[F] It would be open to the Investigating Officer to file an application for remand, if he considers it just and proper and the concerned Magistrate would decide it on merits.

[G] This order will be operative if the applicants are arrested at any time within a period of 90 days from today .

[H] Within a period of ten days from the date of arrest, the applicants shall apply for regular bail which application shall be decided by the competent Court in accordance with law without being influenced by the fact that anticipatory bail was granted.

10) With these directions, this Criminal Misc. Application is disposed of. Rule is made absolute.

Direct service is permitted.

(Akil Kureshi,J.)

(raghu)